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6 *Attorney for Plaintiff,*  
7 SETH GOTTFRIED

8

9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF ILLINOIS**

11 SETH GOTTFRIED,

12 Case No. \_\_\_\_\_

13 Plaintiff,

14 v.  
15 CHINA JOURNAL-CHICAGO, INC.;  
16 and DOES 1 through 10 inclusive,

17 Defendant.

18

19

20 **COMPLAINT FOR DAMAGES AND**  
**INJUNCTIVE RELIEF**

21 **DEMAND FOR JURY TRIAL**

22 Plaintiff, Seth Gottfried alleges as follows:

23 **JURISDICTION AND VENUE**

24 1. This is a civil action seeking damages and injunctive relief for  
25 copyright infringement under the Copyright Act of the United States, 17 U.S.C.  
§ 101 *et seq.*

26 2. This Court has subject matter jurisdiction over Plaintiff's claims

1 for copyright infringement pursuant to 28 U.S.C. § 1331 and 28 U.S.C. §  
2 1338(a).  
3

4 3. This Court has personal jurisdiction over Defendant because  
5 Defendant conducts business and/or resides within the State of Illinois,  
6 Defendant's acts of infringement complained of herein occurred in the State of  
7 Illinois, and Defendant caused injury to Plaintiff within the State of Illinois.  
8

9 4. Venue in this judicial district is proper under 28 U.S.C. § 1391(c)  
10 and 1400(a) in that this is the judicial district in which a substantial part of the  
11 acts and omissions giving rise to the claims occurred. Alternatively, venue is  
12 also proper pursuant to 28 U.S.C. § 1400(b) because the Defendant resides and  
13 has a regular and established place of business in this judicial district.  
14

15 **PARTIES**  
16

17 5. Plaintiff Seth Gottfried ("Gottfried" or "Plaintiff") resides in the  
18 State of New York and is a professional photographer by trade.  
19

20 6. Plaintiff is informed and believes, and thereon alleges, that  
21 Defendant China Journal-Chicago, Inc. is an Illinois corporation, with a  
22 principle place of business at 2146 A S. Archer Ave., Chicago, IL 60616. A true  
23 and correct copy of Defendant's Corporation File Detail Report is attached  
24 hereto as Exhibit A.  
25

26 7. Plaintiff is informed and believes, and thereon alleges, that  
27 Defendant owns and operates the website, [www.chinajournalus.net](http://www.chinajournalus.net) ("the  
28

1 Website”). A true and correct screenshot of Defendant’s e-paper with the same  
2 corporate address is attached hereto as Exhibit B.  
3

4 8. Plaintiff is unaware of the true names and capacities of the  
5 Defendants sued herein as DOES 1 through 10, inclusive, and for that reason,  
6 sues such Defendants under such fictitious names. Plaintiff is informed and  
7 believes and on that basis alleges that such fictitiously named Defendants are  
8 responsible in some manner for the occurrences herein alleged, and that  
9 Plaintiff’s damages as herein alleged were proximately caused by the conduct of  
10 said Defendants. Plaintiff will seek to amend the complaint when the names and  
11 capacities of such fictitiously named Defendants are ascertained. As alleged  
12 herein, “Defendant” shall mean all named Defendants and all fictitiously named  
13 Defendants.  
14

15 9. For the purposes of this Complaint, unless otherwise indicated,  
16 “Defendant” includes all agents, employees, officers, members, directors, heirs,  
17 successors, assigns, principals, trustees, sureties, subrogates, representatives and  
18 insurers of Defendants named in this caption.  
19

20 **FACTUAL ALLEGATIONS**

21 10. Plaintiff Seth Gottfried is a professional photographer by trade.  
22

23 11. Gottfried is the sole author and exclusive rights holder to two original  
24 photographs of the scene of a massive fire in Brooklyn, New York (the “Fire Scene  
25 Images”). A true and correct copy of the original Images is attached hereto as  
26  
27  
28

1 Exhibit C.

2 12. Gottfried registered the Fire Scene Images with the United States  
3 Copyright Office under registration number VA 2-085-925.  
4

5 13. Gottfried originally licensed the Images to the New York Post  
6 (“Post”). On November 9, 2017, the Post ran an article that featured the Fire  
7 Scene Images titled “Two dead after massive fire erupts in Brooklyn Building”  
8 (“Post Article”). A true and correct copy of the Post Article with both Images is  
9 attached hereto as Exhibits D and E.  
10

11 14. Gottfried’s Images featured in the Post Article included a credit below  
12 the bottom left corner crediting the Images to Gottfried.  
13

14 15. Defendant is “the first Chinese weekly newspaper in the United States  
15 dedicated to serving American Chinese, especially mainland new immigrants.”  
16

17 See <http://chinajournalus.net/>.

18 16. Defendant posts news stories to its Website to attract user traffic  
19 and generate advertising revenue. In addition to online news stories, Defendant  
20 produces a print publication of its newspaper. Defendant is also known as the  
21 China Times, Shenzhou Times, Shenzhou Media, and on information and belief  
22 operates [www.chinajournalus.com](http://www.chinajournalus.com).  
23

24 17. On or about January 22, 2018, Gottfried discovered an article on  
25 Defendant’s Website featuring the Fire Scene Images (“Infringing Article”). A  
26 true and correct screenshot of the Infringing Article featuring the Images with the  
27  
28

1 photo credit removed is attached hereto as Exhibit F.

2 18. On information and belief, Defendant extracted the Images from the  
3 Post Article. The Infringing Article is dated November 14, 2017—five days after  
4 the Post Article featured the Images.

5 19. On or about January 26, 2018, Plaintiff's counsel sent a cease and  
6 desist letter to Defendant alerting them to the infringement and requesting, *inter*  
7 *alia*, that the Image be removed from Defendant's Website.

8 20. On or about February 15, 2018, a representative from Plaintiff's  
9 counsel's office contacted Defendant via e-mail and by telephone, but received no  
10 response.

11 21. On or about February 26, 2018, a representative from Plaintiff's office  
12 contacted Defendant via e-mail and by telephone, but received no response.

13 22. On or about May 9, 2018, Plaintiff's counsel sent additional  
14 correspondence to Defendant in an effort to resolve the matter, but did not receive  
15 a response.

16 23. On or about June 18, 2018, a representative from Plaintiff's counsel's  
17 office spoke with a representative at Defendant's office over the phone who  
18 informed her that the owner was unavailable. Plaintiff's counsel's representative  
19 provided her contact information, but never heard back from Defendant.

20 24. On or about June 22, 2018, a representative from Plaintiff's counsel's  
21 office sent Defendant an e-mail in an effort to follow-up on the matter.

1       25. On or about June 29, 2018, Plaintiff's counsel sent additional  
2 correspondence to Defendant in an effort to negotiate, but received no response.  
3

4       26. On or about July 3, 2018, a representative from Plaintiff's counsel's  
5 office called Defendant's office and was informed that the owner was unavailable  
6 and that no one else could help her with this matter.  
7

8       27. Gottfried never authorized Defendant to use any of his Images on  
9 Defendant's Website.  
10

11       28. On information and belief, Defendant willfully removed Gottfried's  
12 photo attribution because Defendant knew it did not have permission to use the  
13 Images.  
14

**FIRST CAUSE OF ACTION**  
**COPYRIGHT INFRINGEMENT**  
**17 U.S.C. § 101 *et seq***

15       29. Plaintiff incorporates by reference all of the above paragraphs of this  
16 Complaint as though fully stated herein.  
17

18       30. Plaintiff did not consent to, authorize, permit, or allow in any manner  
19 the said use of Plaintiff's unique and original Image.  
20

21       31. Plaintiff is informed and believes and thereon alleges that the  
22 Defendants willfully infringed upon Plaintiff's copyrighted Image in violation of  
23 Title 17 of the U.S. Code, in that it used, published, communicated, benefited  
24 through, posted, publicized, and otherwise held out to the public for commercial  
25 benefit, the original and unique Image of the Plaintiff without Plaintiff's consent  
26  
27  
28

1 by using them in the Infringing Article on Defendant's Website.

2 32. As a result of Defendant's violations of Title 17 of the U.S. Code,  
3 Plaintiff is entitled to any actual damages pursuant to 17 U.S.C. §504(b), or  
4 statutory damages in an amount up to \$150,000.00 per infringement pursuant to 17  
5 U.S.C. § 504(c).

6 7 33. As a result of the Defendant's violations of Title 17 of the U.S. Code,  
8 the court in its discretion may allow the recovery of full costs as well as reasonable  
9 attorney's fees and costs pursuant to 17 U.S.C § 505 from Defendant.

10 11 34. Plaintiff is also entitled to injunctive relief to prevent or restrain  
12 infringement of his copyright pursuant to 17 U.S.C. § 502.

13 14 **SECOND CAUSE OF ACTION**  
15 **FALSIFICATION, REMOVAL, AND ALTERATION OF COPYRIGHT**  
16 **MANAGEMENT INFORMATION**  
17 **17 U.S.C. § 1202**

18 19 35. Plaintiff incorporates by reference all of the above paragraphs of this  
Complaint as though fully stated herein.

20 21 36. On information and belief, Defendant knew that Plaintiff created the  
Images because, *inter alia*, the source of the Images that Defendant used to make  
22 the infringing copy, the Post Article, specifically attributed the Image to Plaintiff.

23 24 37. Defendant intentionally falsified copyright management information  
25 related to the Images with the intent to induce, enable, facilitate, or conceal an  
26 infringement of Plaintiff's rights under the Copyright Act. Specifically, Defendant  
27 purposefully failed to credit Plaintiff in order to mislead the public into believing

1 that Defendant either owned the Images or had legitimately licensed it for use in  
2 the Infringing Articles.  
3

4 38. Defendant's conduct constitutes a violation of 17 U.S.C. § 1202(a)  
5 and 1202(b).  
6

7 39. Defendant's falsification, removal, and/or alteration of that copyright  
8 management information was done without Plaintiff's knowledge or authorization.  
9

10 40. Defendant's falsification of said copyright management information  
11 was done by Defendant intentionally, knowingly, and with the intent to induce,  
12 enable, facilitate, or conceal Defendant's infringement of Plaintiff's copyright in  
13 the Images. Defendant also knew, or had reason to know, that such removal and/or  
14 alteration of copyright management information would induce, enable, facilitate,  
15 or conceal Defendant's infringement of Plaintiff's copyright in the Images.  
16

17 41. Plaintiff has sustained significant injury and monetary damages as a  
18 result of Defendant's wrongful acts as hereinabove alleged, and as a result of being  
19 involuntarily associated with Defendant in an amount to be proven.  
20

21 42. In the alternative, Plaintiff may elect to recover statutory damages  
22 pursuant to 17 U.S.C. § 1203(c)(3) in a sum of not more than \$25,000 from  
23 Defendant for each violation of 17 U.S.C. § 1202.  
24

25 **PRAYER FOR RELIEF**  
26

27 **WHEREFORE**, Plaintiff prays for judgment against Defendant as follows:  
28

- 29 • For statutory damages against Defendant in an amount up to \$150,000.00  
30

1 for each infringement pursuant to 17 U.S.C. § 504(c);

2 • For statutory damages against Defendant pursuant to 17 U.S.C. § 1203(c)(3)  
3 in a sum of not more than \$25,000 for each violation of 17 U.S.C. § 1202.  
4

5 • For general and special damages against Defendant according to proof  
6 together with interest thereon at the maximum legal rate;  
7

8 • For costs of litigation and reasonable attorney's fees against Defendant  
9 pursuant to 17 U.S.C. § 505;

10 • For an injunction preventing Defendant from further infringement of all  
11 copyrighted works of the Plaintiff pursuant to 17 U.S.C. § 502; and  
12

13 • For any other relief the Court deems just and proper.

14  
15 Dated: August 23, 2018

16 Respectfully submitted,

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*/s/ Mathew K. Higbee*  
Mathew K. Higbee, Esq.  
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(714) 617-8350  
(714) 597-6559 facsimile  
*Counsel for Plaintiff*

**DEMAND FOR JURY TRIAL**

Plaintiff, Seth Gottfried, hereby demands a trial by jury in the above matter.

Dated: August 23, 2018

Respectfully submitted,

/s/ Mathew K. Higbee  
Mathew K. Higbee, Esq.  
Ill. Bar No. 6319929  
HIGBEE & ASSOCIATES  
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Santa Ana, CA 92705-5418  
(714) 617-8350  
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*Counsel for Plaintiff*

# **Exhibit “A”**

## OFFICE OF THE ILLINOIS SECRETARY OF STATE

JESSE WHITE  
SECRETARY OF STATE

## CORPORATION FILE DETAIL REPORT

File Number	58611859		
Entity Name	CHINA JOURNAL-CHICAGO,INC.		
Status	ACTIVE		
Entity Type	CORPORATION	Type of Corp	DOMESTIC BCA
Incorporation Date (Domestic)	12/04/1995	State	ILLINOIS
Agent Name	MEI ZHENG	Agent Change Date	12/04/1995
Agent Street Address	2146 A S ARCHER AVE	President Name & Address	MAY ZHENG 2146 A S ARCHER AVE CHICAGO IL 60616
Agent City	CHICAGO	Secretary Name & Address	MAY ZHENG SAME
Agent Zip	60616	Duration Date	PERPETUAL
Annual Report Filing Date	11/14/2017	For Year	2017

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(One Certificate per Transaction)

## OTHER SERVICES

[File Annual Report](#)[Adopting Assumed Name](#)[Articles of Amendment Effecting A Name Change](#)[Change of Registered Agent and/or Registered Office Address](#)[BACK TO CYBERDRIVEILLINOIS.COM HOME PAGE](#)

# **Exhibit “B”**

12:45 PM

Not Secure | epaper.chinajournalus.net/flipV5.html#/chinajournalus/2

神州时报

View as Analog

View as Digital

Open Date & Time Preferences...

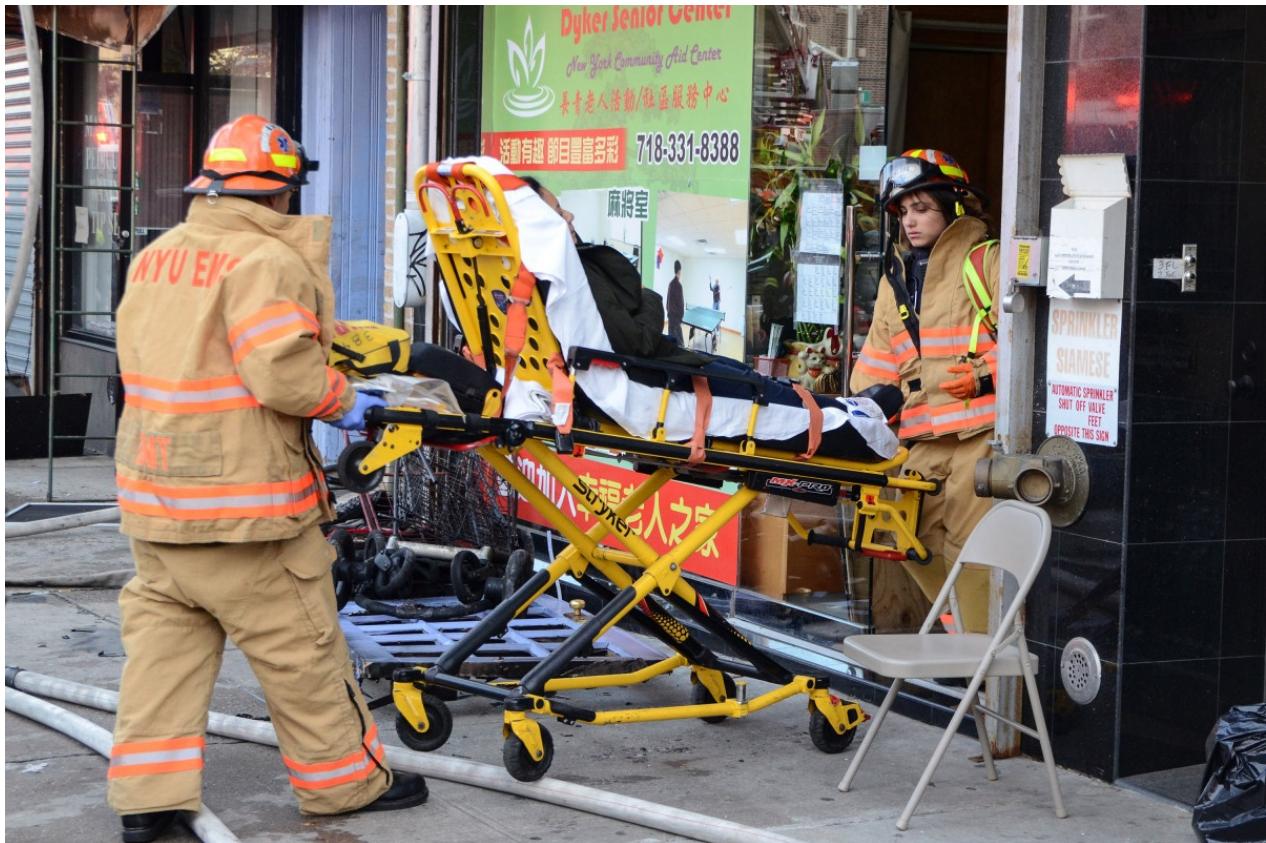
©Disney/Pixar

PIXAR  
FEST

HURRY! ENDS SEPT 3.

# **Exhibit “C”**





# **Exhibit “D”**

METRO

# Two dead after massive fire erupts in Brooklyn building

By Jennifer Bain and Daniel Prendergast

November 9, 2017 | 12:03pm | Updated

Two people died in a massive fire at a Brooklyn building Thursday morning that appears to be suspicious, sources said.

The blaze started around 7:30 a.m. inside a three story building on 11th Ave. near 67th St. in Dyker Heights and quickly spread throughout.

Firefighters pulled the bodies of a 58-year-old man and a 56-year-old woman out of the raging fire. They were pronounced dead at the scene.

Two men, 31 and 30, and two children, 4 and 3, suffered smoke inhalation and were rushed to Maimonides Hospital in stable condition, officials said.

Three firefighters were also treated for minor injuries.

"There was screaming and panicking and then six or seven fire engines. People were running out of the building," said building resident George Rezk, 60.

The cause of the fire is still unknown, but has been deemed suspicious as investigators try to determine whether an accelerant was used, sources said.

The FDNY said there were no working smoke alarms inside the apartment where the fire originated.

"There was a family in their car, some in pajamas, some in their underwear, anything to keep them warm enough," said Heidi Pugni, 53.

"The family that was in the apartment that was burning, they were in front of our house. They were barefoot. They were in their pajamas," she added.

"Everyone contributed clothing to them; socks, blankets. My heart just dropped. I was so nervous for everyone."



Firefighters transport a victim of a fire in Brooklyn early Thursday morning.

Seth Gottfried

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# **Exhibit “E”**

METRO

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By Jennifer Bain and Daniel Prendergast

November 9, 2017 | 12:03pm | Updated

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— ADVERTISEMENT —



To add after the event: Two dead after massive fire erupts in Brooklyn building  
Everyone contributed clothing to them; socks, blankets. My heart just dropped. I was so nervous for everyone."



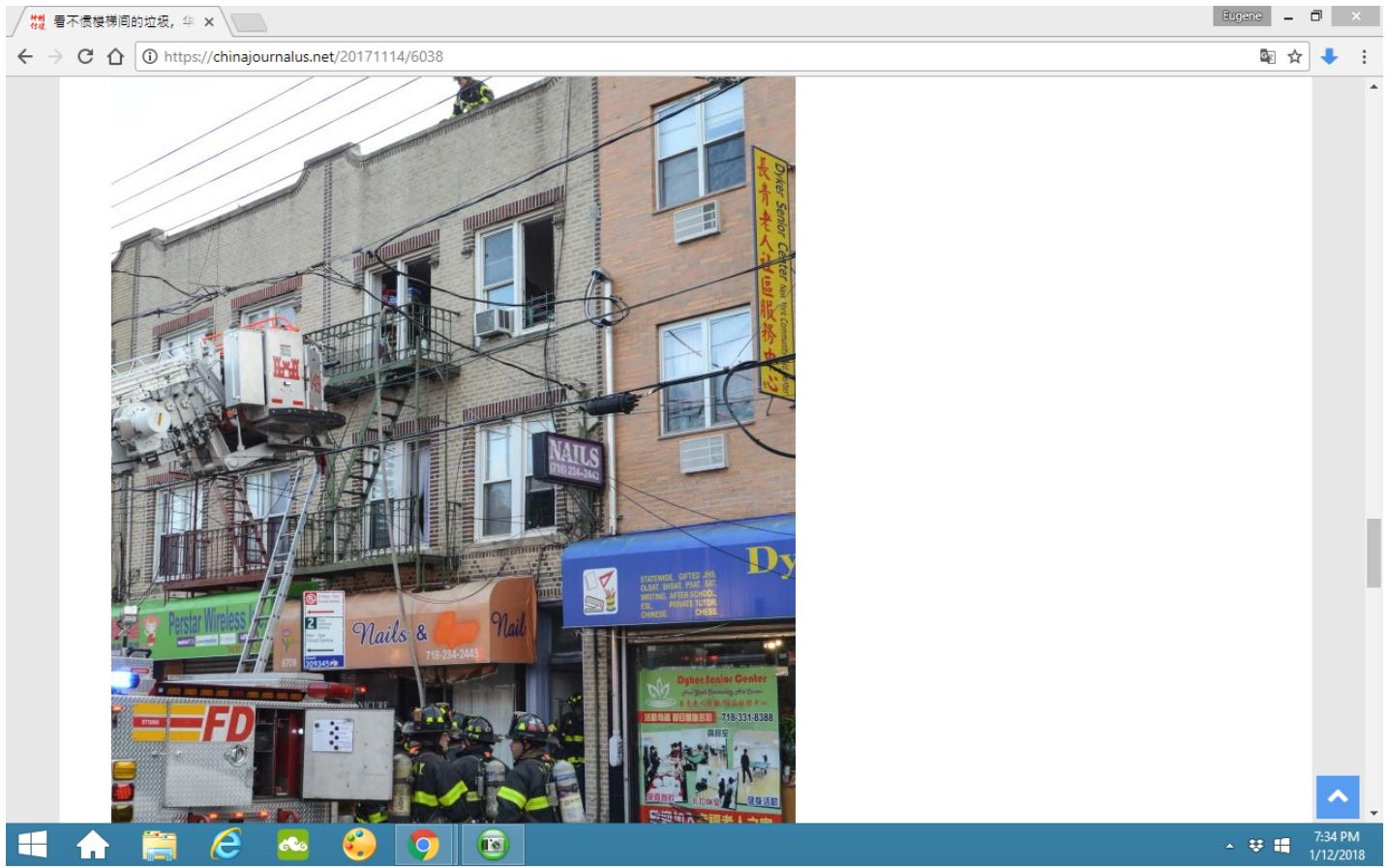
Seth Gottfried

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# **Exhibit “F”**



7:34 PM  
1/12/2018

